

SERVICE DATE – JUNE 10, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 162X)

UNION PACIFIC RAILROAD COMPANY–ABANDONMENT
EXEMPTION–IN BEXAR COUNTY, TX

Decided: June 5, 2002

Union Pacific Railroad Company (UP) and Alamo Gulf Coast Railroad Company (AGCR) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments and Discontinuances of Service and Trackage Rights for UP to abandon a 3.49-mile line of railroad on the Kerrville Subdivision near Leon Springs from milepost 256.00 near Russell Park to milepost 259.49 near Camp Stanley; and for AGCR to discontinue service over a 1.0-mile portion of the line from milepost 256.0 to milepost 257.0, in Bexar County, TX.¹ Notice of the exemption was served and published in the Federal Register on November 24, 2000 (65 FR 70631-32).

On April 16, 2002, the Texas Electric Rail Lines, Inc. (TERL) filed a letter purporting to be an offer of financial assistance (OFA), “or preferably, an offer to conduct subsidized operations over” the involved line.² TERL states that it proposes to operate and keep the right-of-way open and functioning. TERL also makes reference to its intent to provide rail passenger service.

On April 23, 2002, UP filed a reply to TERL’s OFA. UP states that the Board should reject TERL’s filing, observing that it was not a timely OFA filing and that TERL has not demonstrated its financial responsibility. UP also states that it has consummated the abandonment.³

¹ AGCR’s proposed discontinuance was docketed as STB Docket No. AB-576 (Sub-No. 1), Alabama Gulf Coast Railroad Company–Discontinuance of Service Exemption–in Bexar County, TX.

² Offers of financial assistance were due 30 days from the date of publication of the notice in the Federal Register (in this proceeding, that would have been in December 2000).

³ TERL’s filing did not include a certificate of service and it was apparently not filed on UP. UP states that it was made of aware of TERL’s filing when it appeared on the Board’s website. Under 49 CFR 1152.27(c)(2)(ii), TERL was required to serve its offer on UP and on other parties to the proceeding.

TERL's OFA will be rejected. The filing was made long after the deadline for filing OFAs and, on that basis alone, the Board no longer has authority to entertain an OFA. In addition, under 49 CFR 1152.27(c)(2)(iii) and 1152.27(c)(1)(ii), an offeror must include in its OFA a demonstration that it is financially responsible to purchase or subsidize the line. TERL included no demonstration of financial responsibility.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. TERL's purported OFA is rejected.
2. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary